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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

SAUL CERVANTES,

Plaintiff,

v.

MARNELL GAMING, LLC,

Defendant.

Case No. 3:17-cv-0519-LRH-(WGC)

ORDER

Before the court is defendant Marnell Gaming, LLC's ("Marnell") motion to dismiss plaintiff Saul Cervantes' complaint (ECF No. 1). ECF No. 4. Plaintiff Cervantes filed an opposition and request for leave to file an amended complaint (ECF No. 7) to which Marnell replied (ECF No. 8).

This action involves the alleged discrimination of Cervantes, a Mexican-American, by the Nugget Resort located in Sparks, Nevada, and owned by defendant Marnell. Cervantes alleges that on August 9, 2017, he and his family were discriminated against by being forced to park farther away from the Nugget Resort property than other patrons and having their reservation cancelled upon arrival which caused Cervantes to pay additional money to stay at the property.

On August 27, 2017, Cervantes filed a complaint against Marnell for three causes of action: (1) discrimination; (2) negligent infliction of emotional distress; and (3) intentional infliction of emotional distress. ECF No. 1. In response, Marnell filed the present motion to

1 dismiss all three causes of action. ECF No. 4. In his opposition, Cervantes recognizes that his  
2 complaint is not properly pled and has requested leave to file an amended complaint. *See*  
3 ECF No. 8.

4 The court has reviewed the documents and pleadings on file in this matter and finds that  
5 leave should be granted to allow Cervantes to file an amended complaint. In his opposition,  
6 Cervantes requests leave to amend his complaint to address the pleading defects identified by  
7 Marnell in its motion to dismiss. Although Cervantes has not provided the court with a copy of  
8 his proposed amended complaint, he did provide additional allegations that address several of  
9 the issues raised in Marnell's motion to dismiss. Further, the court finds that there is no undue  
10 delay, bad faith, or dilatory motive on behalf of Cervantes in requesting leave to amend his  
11 complaint as this action is still very early in litigation. Therefore, the court shall deny Marnell's  
12 motion to dismiss without prejudice and grant Cervantes leave to file an amended complaint.

13  
14 IT IS THEREFORE ORDERED that defendant's motion to dismiss (ECF No. 4) is  
15 DENIED without prejudice.

16 IT IS FURTHER ORDERED that plaintiff Saul Cervantes shall have twenty (20) days  
17 after entry of this order to file an amended complaint.

18 IT IS SO ORDERED.

19 DATED this 7th day of November, 2017.

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22 LARRY R. HICKS  
23 UNITED STATES DISTRICT JUDGE  
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